IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLN.NO.1144 OF 2006
IN
APPEAL NO. 908 OF 2006
WITH
APPEAL NO. 908 OF 2006

Employees' State Insurance Corporation ..Applicant

Vs.

Sanjeeva Moilly and Ors. ..Respondents

...

Mr.H.V.Mehta counsel for Applicant
Mr.V.B.Konde-Deshmukh A.P.P. for the State

...

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : OCTOBER 30, 2007

P.C.

1. Heard the learned counsel on behalf of the applicant. None appears on behalf of Respondent nos.1 and 2 though they are served. The applicant is challenging the judgment and order dated 28.7.2006 passed by the Metropolitan Magistrate, 10th Court, Andheri, Mumbai in CC No.1113/SS of 2005. By the said order, the learned Magistrate was pleased to dismiss the complaint for default.

2. Mr.Mehta, the learned counsel for the applicant

submits that the applicant shall remain present regularly before the Court. In this case, the warrants have been issued against the accused and the said warrants were not collected. Mr.Mehta states that the said warrants would be collected by the complainant within four weeks from today. Thereafter, the warrants would be executed. In my view, in the interest of justice, it is necessary to give one chance to the complainant to collect and serve the warrants on the accused persons.

3. In view of the above, application is allowed. The order passed by the Magistrate is set aside. Criminal Case is restored to file. Learned Magistrate to decide the criminal case on merits and in accordance with law. Criminal Application and Criminal appeal are accordingly disposed of.

[SMT.V.K.TAHILRAMANI, J.]